Missouri
Department of
Natural Resources

Response to Comment(s)
On Rule in Development

Rule number: 10 CSR 10-6.364

Rule Title: Clean Air Interstate Rule Seasonal NOx Trading Program

Type of rulemaking: New Rule

Response to Comments From Clean Air Interstate Rule Workgroup

Comment: The language in the applicability section needs to be amended to match final language in Environmental Protection Agency (EPA's) revised Clean Air Interstate Rule (CAIR).
Response: The program agrees with the comment to incorporate the changes from EPA's revised rule. The program intends to change the language to read:

Except as provided in subsections (B) and (C) of this section, a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the startup of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

Comment: The low emitter and low run hour exemptions in the proposed rule draft should be voluntary.
Response: The program agrees with this comment and proposes the language below to reflect a voluntary exemption.

(B) Low Emission – Low Run Hour Exemptions. The provisions of this subsection will apply only to units that request exemption under this subsection and have such request approved by the staff director.

Comment: Several units were left off of Table 1 in the draft rule.
Response: The program is working with the affected sources and the workgroup to include the units that are affected by this rule.

Comment: Table II needs to be added to the rule.
Response: The program intended to include the table below as table II in the proposed rule.

Table II

Non-EGUs Boilers	Unit	NO_x Limitation per Unit Tons Per Ozone Season
Anheuser Busch	6	14
Trigen Ashley Street Station Boiler	5	9
Trigen Ashley Street Station Boiler	6	36

Comment: The October 31, 2007 date in subparagraph (3)(B)1.A. should be changed to better coincide with the CAIR federal implementation plan.
Response: The October 31 date is consistent with EPA's model rule language. The program can and plans to supply EPA with the initial NOx allocations upon finalizing the CAIR rules. The current language allows the program to make this request.

Response to Comments of the City of Higginsville.

Comment: Higginsville's units qualify as Low Mass Emission (LME) units as defined in 40 CFR Part 75, as an alternative to installation of a Continuous Emission Monitoring System (CEMs). However, the default emission rates are more than 4 times that of the Subpart GG tested emission rates. Based on this factor, the City of Higginsville would either have to pay for unit specific testing or accept the default emission rate. The units specific testing is to be conducted every five years and will cost an estimated $150,00 in fuel alone, based on current fuel prices. Testing company charges have historically been $15,000-$20,000 per unit. This total amount would have to be compared with the market price of the additional allowances required by the default emission rates. The additional operating hours required for testing would also require the purchase of additional allowances, not otherwise needed. Both the emissions produced by unit specific testing and additional allowances required by the default rates, would unnecessarily remove allowances from the market, thereby constraining the market.
Response: The program agrees with Higginsville's comments regarding monitoring for low emitting or low run time units. However, the workgroup's main concern clearly was the inclusion of Missouri in EPA's regional trading programs. EPA has stated in comments submitted to this rule that there can be no changes to the exemptions if Missouri wishes to be part of the EPA administered trading program.

Response to Comments of the City of Chillicothe.

Comment: Chillicothe Municipal Utilities (CMU), located in Chillicothe, Missouri operates for identical combustion turbines. The four combustion turbines are subject to the proposed Clean Air Interstate Rules (CAIR) because they serve a generator greater than 25 MW. However, if each engine had its own generator, they would not be subject to any of the proposed regulations.

CMU supports the exemption language referenced in each of the proposed State of Missouri rules for units that qualify as low emission or low run hour units. The exemption language allows periodic operation of such units when needed, without compromising the goals of CAIR.

Economics usually dictate when combustion turbines operate, in order to limit customer exposure to extremely high market prices (when other, cheaper sources of power are not available). There are other times, and usually in the summer months, when the normal flow of power is curtailed or interrupted due to transmission problems or storms. These interruptions require a back up source of power that combustion turbines can provide until problems are corrected. However, to operate them for extended periods of time is cost prohibitive. CMU's turbines historically are used less than ½ to 1% of the time available in a year.

Currently, each of the combustion turbine engines can operate up to 400 hours during the May to September months and remain in compliance with 10 CSR 10-6.350. The proposed language in 10 CSR 10-6.364 would change this to 350 hours. Actual run time during the ozone season is about 40 hours per engine, or less than 10% of the run time needed to retain the proposed exemption. With the exemption language in the proposed rules, compliance will continue to be achieved by keeping track of each of the combustion turbine engine's run hours.

Without the exemption language in the proposed rules, additional monitoring, recordkeeping and reporting will be required. CMU would also be required to purchase NOx and SO2 allowances at a substantial cost to CMU and the community it serves, but without any perceived environmental benefit.

Without the exemption language, CMU will be required to report emissions based on continuous emission monitoring data, site specific test results or use default emission values allowed for Low Mass Emission (LME) units. Each of these options for reporting emissions created additional monitoring and recordkeeping, adding a substantial cost to CMU for every hour of operation. If all four turbines were to be tested to report emissions using site specific emission rates, the estimated cost for the fuel could reach $336,000. And the amount of NOx emissions to perform the test would exceed the actual emissions reported for 2004. Without the factors; however, these emission factors overstate emissions compared to actual emissions. Other costs to account for additional recordkeeping, quarterly emission reporting and annual flow meter calibrations is expected to raise the actual cost to CMU to three to four times the market price of the allowances. As the rules are proposed, the exemption for low emission or low run hour units avoids the added cost to otherwise prove their emissions are indeed low.

With the proposed exemption, CMU will continue to avoid participation in the SO2 trading program. The proposed exemption allows CMU to avoid the cost for monitoring, recordkeeping, reporting and trading of SO2 emissions for what historically has averaged less than a 0.25 tons of SO2 emissions per year over the last 5 years from all four combustion turbines combined. Such a small source should continue to be exempt.

Independent of the above, the emissions from the CMU turbines are not expected to influence the goals of CAIR. The air quality impact from these units, because of their short stacks and low emissions, will have no quantifiable effect on any instate or downwind ozone non-attainment area affected by CAIR. CMU's average NOx emissions for the past 5 years were 8.3 tons (0.014% of the annual proposed statewide budget) and 6.8 tons for the ozone season (0.024% of the ozone season proposed statewide budget).
Response: The program agrees with CMU's comments regarding monitoring for low emitting or low run time units. However, the workgroup's main concern clearly was the inclusion of Missouri in EPA's regional trading programs. EPA has stated in comments submitted to this rule that there can be no changes to the exemptions if Missouri wishes to be part of the EPA administered trading program.

Response to Comments of the U.S. Environmental Protection Agency

Comment: Subsections (1)(A) – This provision needs to be revised to reflect the applicability provisions finalized on April 28, 2006. In addition, EPA notes that some of the cross-references in the current Subsection (1)(A) are not correct. Section (1)(A) –

"…subject to the requirements of sections (3) and (4) of this rule" should be replaced with "subject to the requirements of **paragraph 2.** of this subsection...". Retired units continue to be CAIR NOx Ozone Season units. Subsection (1)(A)2. – "…the unit shall be subject to subsection (A) of this section…" should be replaced with "…the unit shall be subject to **paragraph 1.** of this subsection…" .
Response: The program has amended the proposed rule language as commented.

Comment: Subsection (1)(A)3. – This provision should read "This rulemaking shall apply throughout … to **fossil-fuel-fired boilers**, **combustion turbines, or combined cycle systems",** not "Non-electric generating boilers". This is consistent with EPA's recent approval of Missouri's SIP under the NOx SIP Call. (See 71 FR 46860, 46863 (August 15, 2006). In addition, there are a number of the differences between the CAIR applicability provisions and the Missouri NOx Budget Trading Program applicability provisions; for example, CAIR exempts certain cogeneration units, while the NOx Budget Trading Program does not exempt them but rather treats them as either EGUs or non-EGUs. Therefore, it may be that the best way to ensure that all units covered by the Missouri NOx Budget Trading Program and not by the general CAIR applicability provisions are brought into the Missouri's CAIR NOx ozone season trading program is to include, in their entirety, the applicability provisions from the Missouri NOx Budget Trading Program, not just the non-EGU applicability provisions. EPA suggests that Missouri consider this approach and consider whether some units covered by the Missouri NOx Budget Trading Program EGU applicability provisions may not be covered by the general CAIR applicability provisions. EPA is willing to work with Missouri concerning how to include the Missouri NOx Budget Trading Program applicability provisions in Missouri's CAIR rule.
Response: The program has amended the proposed rule language as commented.

Comment: Subsection (1)(B) – This entire provision must be removed. Under 40 CFR 51.123 (aa), states that want to participate in the EPA-administered CAIR NOx Ozone Season Trading Program may modify certain sections of the model rule. Because 40 CFR 51.123(aa) does not allow modifications of the applicability provisions of the CAIR NOx ozone season model rule (except to add NOx Budget Trading Program units), the provision "Low Emission -- Low Run Hour Exemptions" in Missouri's CAIR NOx ozone season rule is not approvable and will need to be removed if Missouri wants to participate in the EPA-administered CAIR NOx Ozone Season Trading Program.
Response: The program has amended the proposed rule language as commented.

Comment: Subsection (1)(C) – EPA suggests that Missouri incorporate by reference the retired unit exemption provision (§96.305) in the model rule rather than reproducing in Missouri's rule the language of the model rule provision. Incorporation by reference would remove the potential for unintentional errors and facilitate Missouri's adoption of any future changes in the model rule provision. If Missouri prefers to reproduce the exemption provision, the corrections below for Subsections (1)(C) and (D) should be made.
Response: The program has amended the proposed rule language as commented.

Comment: Subsection (1)(C)1.A – "CAIR NOx Ozone Season opt-in unit" should read "CAIR NOx Ozone Season opt-in unit under subpart IIII of 40 CFR Part 96 as incorporated by reference in section (3) of this rule", and "...§96.306(c)(4) through (8), §96.307, …" should read "…§96.306(c)(4) through (7), §96.307, §96.308,…",

Subsection (1)(C)1.C. – "subpart CCCC…" should read "subpart CCCC of **40 Part CFR 96**…", Subsection (1)(C)2.G – "subpart HHHH" should read "subpart HHHH **of 40 CFR Part 96**", "subsection (4) of this rule" should read "section (4) of this rule", and "…commences operation and commercial operation…" should read "…commences commercial operation…".
Response: These provisions have been removed from the proposed rule.

Comment: Subsection (2)(A) and (3)(A) – These provisions should reference the model rule provisions promulgated as of April 28, 2006. Subsection (2)(A) should refer to §96.302 and §96.303, rather than §96.303 and §96.304. Subsection (3)(A) must include in the incorporation by reference §§96.306, 96.307, and 96.308.
Response: The program has amended the proposed rule language as commented.

Comment: Subsection (3)(B) – This provision should refer to allowances as "CAIR NOx Ozone Season allowances" to distinguish them from the CAIR NOx allowances used in the CAIR NOx Annual Trading Program.
Response: The program has amended the proposed rule language as commented.

Comment: Subsection (3)(B)1. – NOx Allowances, timing requirements. The date should be **October 31, 2006**. (See 40 CFR 51.123(aa)(2)(iii)(C).)
Response: The program has amended the proposed rule language as commented.

Comment: Subsection (3)(B)2.A. – EPA suggests that this provision state the Missouri state budget amounts, rather than referring to the "approved state implementation plan". For example, this provision could read "The state trading program NOx ozone season budget allocated by the director under subparts (3)(B)2.B. and (3)(B)2.C. of this rule for a calendar year will equal…", with the appropriate numbers of tons for 2009-2014 and for 2015 and beyond inserted.
Response: The program has amended the proposed rule language as commented.

Comment: Tables I and II – Table I is missing, and Table II seems to be mislabeled. Also in Table II, Phase I adds up to 26,677 in Phase I but should total 26,678 (is missing 1 allowance). Please check these totals.
Response: The program has amended the proposed rule language as commented.

Comment: Subsection (4)(A) – This provision should reference the model rule provisions promulgated as of April 28, 2006.
Response: The program has amended the proposed rule language as commented.

Comment: Subsections (4)(B) and (4)(C) – These entire provisions must be removed. (See explanation in comment # 3.)
Response: The program has amended the proposed rule language as commented.

Comment: When Subsections (4)(B) and (4)(C) are removed, only Subsection (4)(A) remains. EPA suggests adding section HH to the incorporation by reference of the other model rule sections in Subsection (3)(A). Then, if Subsection (4)(A) is integrated in Subsection (3)(A), in Subsection (1)(C)2.G, the reference to "subsection (4)" would need to be changed to "section (3)".
Response: The program has amended the proposed rule language.

Comment: The definitions of "fossil fuel fired" and "cogeneration unit" differ between the NOx SIP Call and CAIR. To the extent these terms are used in the applicability provisions for non-EGUs in the State's NOx SIP Call trading rule, Missouri should preserve, and include in the CAIR NOx ozone season trading rule, the NOx SIP Call definitions but should specify that these definitions apply only for purposes of determining applicability for units that are not EGUs as defined in CAIR.
Response: The program has amended the proposed rule language as commented.

Comment: EPA suggests supplementing the "commence commercial operation" definition in the CAIR NOx ozone season trading rule with the following language:

> (3) Notwithstanding paragraphs (1) and (2) of this definition, for a unit not serving a generator producing electricity for sale, the unit's date of commencement of operation shall also be the unit's date of commencement of commercial operation.

This language addresses the fact that: monitoring system certification deadlines are based on commencement of commercial operation; and non-EGUs may not generate electricity and so never "commence commercial operation," as currently defined in the CAIR NOx ozone season trading rule.
Response: The program has amended the proposed rule language as commented.

Comment: EPA suggests supplementing the "commence operation" definition in the CAIR NOx ozone season trading rule with the following language:

> (2) Notwithstanding paragraph (1) of this definition, and solely for purposes of 40 CFR Part 96, subpart HHHH, for a unit that is not a CAIR NOx Ozone Season unit under [reference new applicability language covering non-EGUs from State's NOx SIP Call trading program] on the later of November 15, 1990 or the date the unit commences operation as defined in paragraph (1) of this definition and that subsequently becomes such a CAIR NOx Ozone Season unit, the unit's date for commencement of operation shall be the date on which the unit becomes a CAIR NOx Ozone Season unit under [reference new applicability language covering non-EGUs from State's NOx SIP Call trading program].
>
> (i) For a unit with a date of commencement of operation as defined in paragraph (2) of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the date of commencement of operation of the unit, which shall continue to be treated as the same unit.
>
> (ii) For a unit with a date for commencement of operation as defined in paragraph (2) of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), such date shall remain the replaced unit's date of commencement of operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in paragraph (1) or (2) of this definition as appropriate.

(In order to make this suggested language fit into the current "commence operation" definition, the paragraphs of the model rule definition need to be redesignated as paragraphs (1), (1)(i), and (1)(ii).) This language addresses situations where a non-EGU does not become subject to CAIR until a date after the unit commences operation; the current definition of "commence commercial operation" includes analogous language.

Response: The program has amended the proposed rule language as commented.

Response to Comments of the Kansas City Power and Light.

Comment: The following comments on the Missouri Department of Natural Resources Air Pollution Control Program's draft proposed rule in response to the Environmental Protection Agency's Clean Air Interstate Rule were submitted by the Kansas City Power and Light.

Within the workgroup process compromises were made as the rule was developed. For example, KCP&L believes that the Energy Conservation pool of NOx allowances could have been better used by being allocated to existing units. In addition, the tire-derived fuel provision provides extra allowances to utilities that burn tire-derived fuel. KCP&L currently would not utilize the benefits of the latter provision. Compromises were, however, reached on these issues.

The participant utilities agreed early in the process that the allocation of NOx allowances to all existing units in the state should be treated the same. The federal rule had provided for special provisions for "new units" that went on line after January 1, 2001. These provisions would have unfairly impacted Hawthorn 5A, the only "new unit" in the state, which started operations in May of 2001, just a few months past the deadline. The "new unit" provisions would have adjusted the average heat input used to allocate NOx allowances based on a heat rate of 7900 BTUs/KWHr. This adjustment is based on an assumption made by EPA that new units will operate at this heat rate level. KCP&L has over four years worth of CEM data on Hawthorn 5A that shows that its heat rate over that period has averaged around 10,500 BTUs/KWHr, consistent with our existing coal-fired units. To adjust allocations based on the "new unit" approach would have unjustly penalized the only "new unit" in the state. The other utilities in the state agreed to this approach for NOx allocations during the stakeholder process.

In its proposed rules, the department decided to treat allocations for mercury on the same basis as NOx, treating all existing units alike. KCP&L agrees with this approach and encourages the state to maintain it in the final rule. To do otherwise would again penalize "new units" by treating them differently from existing units. In Missouri's case this singles out only one unit in the state, Hawthorn 5A. The state's proposal decided to follow the model federal rule in allowing existing units that burn sub-bituminous coal to increase their heat input by a factor of 1.25 before calculating the allowance distribution based on each unit's proportional share of state-wide heat input. The utilities in the state agreed with this approach in the stakeholder process. The federal proposal, however, would deny this heat input factor to new units, those put in service after 2001, and would once again single out Hawthorn 5A as the only unit in the state that meets the new definition.

One utility in the state disagrees with the approach taken by the department and has commented that the proposed rule should be changed. KCP&L disagrees and supports the position taken by the department that the state rule should be consistent between the NOx allocations and the Mercury allocations, since all units are treated as existing units for NOx, the same should hold true for Mercury. Any federal assumption that "new units" are more easily controlled for mercury is not necessarily any more accurate than the assumption that "new units" can easily achieve a heat rate of 7900 BTUs/KWHr, an

assumption that Hawthorn 5A's CEM data proves to be false. KCP&L has not yet installed any mercury control equipment at Hawthorn 5A and therefore does not have any more advantage over other state utilities for mercury control at their units.

In conclusion KCP&L supports the language in the proposed rule as your department after many months of review and participation by interested participants currently proposes it. Hawthorn 5A should be treated the same as all other electric generating units in the state.
Response: The program agrees with the comments regarding the compromises that were made during the workgroup process. The program has not made any changes to this draft rule in response to this comment and will address the comments on other rules in the corresponding responses.

Response to Comments of Empire District Electric Company.

Comment: The Empire District Electric Company (Empire) submits for the record these comments concerning draft proposed rules 10 CSR 10-6.362, 10 CSR 10-6.364, 10 CSR 10-6.366, and 10 CSR 10-6.368. Before proceeding to comments specific to each of these rules, Empire would like to thank the Missouri Department of Natural Resources for supporting the market-based principles of the Clean Air Interstate Rule and Clean Air Mercury rule, rather than potentially less beneficial, more expensive command-and-control approaches. We also than the department staff for working closely with stakeholders to develop methods for the allocation of allowances.
Response: The program appreciates the support of Empire and all of the workgroup members during the workgroup and rule process.

Comment: The reference to subparagraph (1)(C) in subparagraph (1)(C)1.B. should be changed to subsection (C).
Response: This provision has been removed from the proposed rule.

Comment: The reference to paragraph (3)(E)3. in paragraph (e)(B)2.C. should be changed to paragraph (3)(B)2.B.
Response: The program has amended the proposed rule language as suggested.

Response to Comments From the United States Combined Heat & Power Association.

Comment: We understand that the Agency has adopted the United States Environmental Protection Agency's CAIR model for the NOx Annual Trading and NOx Ozone Season Trading Programs ("Model Rule"). As you know, the Model Rule utilizes "modified" output-based standards for NOx allowance allocation for cogeneration and distributed generation emissions units that commenced construction after January 1, 2001. USCHPA's position is that the Agency's adoption of the Model Rule's output-based standards for "new" emissions units will more equitably award NOx allocations to sources that efficiently generate power.

Indeed, U.S. EPA has recently employed output-based standards in proposed and final rulemakings. For example, U.S. EPA's recently finalized new source performance standards for stationary combustion turbines issued output based emissions standards for NOx and sulfur dioxide. *See Standards of Performance for Stationary Combustion*

Turbines, 71 Fed. Reg. 38482 (July 6, 2006). In a proposed rule for revision new source review applicability for electric generating units ("EGUs"), U.S. EPA explained that output based emissions standards are beneficial from an efficiency and environmental perspective:

> We also believe that incorporating output-based emissions test has merit for several reasons. The primary benefit of output-based standards is that they recognize energy efficiency as a form of pollution prevention. Using more efficient technologies reduces fossil fuel use and also reduces the environmental impacts associated with the production and use of fossil fuels. Another benefit is that output-based standards allow sources to use energy efficiency as a part of their emissions control strategy. Energy efficiency as an additional compliance option can lead to reduced compliance costs, as well as lower emissions. We want to encourage use of efficient units that displace less efficient, more polluting units. This approach is especially desirable where EGUs are already subject to market-based systems such as the Acid Rain Program, NOx SIP Call, and State trading programs implementing the CAIR, as those programs increase incentives for using efficient units.

See Prevention of Significant Deterioration, Nonattainment New Source Review, and New Source Performance Standard: Emissions Test for Electric Generating Units; 70 Fed. Reg 61081 at 45-46 (October 20, 2005). Many states are also developing programs that promote CHP projects using output-based limits. USCHPA fully supports U.S. EPA's view regarding output-based standards and believes that this approach will gain wide acceptance as environmental regulatory agencies grapple with ways to achieve ever-increasing emissions reductions that are palatable to industry and environmental interest groups. It is also critical to note that the inclusion of output-based standards lowers the overall economic sot of pollution reductions by allowing sources to employ revenue-generating energy efficiency measures as a route to emissions compliance. By contrast, failure to include output-based standards compels businesses to direct scarce capital dollars toward end-of-pipe measures that increase there operating and capital costs to achieve the same ends, and are thus contrary to economic and environmental policy objectives.

The Model Rule also provides for allowance set-aside for "new" units. We strongly encourage the Agency to establish allowance set-asides for CHP projects to promote energy efficiency. Small CHP projects (projects serving generators less than 25 MWe) should also be eligible for allowance set-asides to facilitate their entry into the marketplace. Collectively, smaller CHP projects, which are often customer-owned, can significantly improve energy efficiency and provide economic benefits. Similar to the output-based standards referenced above, allowance set-asides should foster the development of CHP projects of all sizes that will eventually increase the amount of regional energy produced per unit of fuel consumed.

USCHPA encourages the Agency to explore alternatives that provide greater incentives to CHP projects than the Model Rule. The State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials ("STAPPA/ALAPCO") published in August 2005 a document entitled "Alternative NOx Allowance Allocation Language for the Clean Air Interstate Rule." The

STAPPA/ALAPCO document contains several alternative language choices that promote CHP. These alternatives are designed to integrate seamlessly into the Model Rule. The STAPPA/ALAPCO document can be found at the following weblink: http://www.4cleanair.org/SearchResults.asp

Finally, promoting clean energy such as CHP will address critical issues facing this nation. The convergence between efficiency and power generation which CHP technologies provide will beget emissions reductions per unit of energy generated but also address homeland security issues such as energy independence and greenhouse gas reduction. Moreover, the Agency's support for CHP should spur additional CHP development and lead to even greater emissions reductions and efficient generation.
Response: The program agrees that combined heat and power projects provide a variety of benefits. However, the CAIR and CAMR rulemakings were developed to participate in EPA's regional trading program and were developed through a stakeholder participation process. These rules are the result of the discussions in those meetings. Therefore, the program has not amended the proposed rule in response to this comment.

Response to Comments of City Utilities of Springfield.

Comment: In the main, City Utilities supports the rule language as written. However, we believe that section (3)(B) of the rule should include a stronger reference to permanent unit allocations, similar to the Acid Rain provisions for SO2 allocations (40 CFR Part 73). City Utilities believes this regulatory certainty is necessary in order for affected sources to make prudent business decisions and plan for future control measures. For this reason, City Utilities requests removal of any calendar year reference pursuant to the allowance allocation provisions.
Response: The program has added language to clarify that the allocations to be used are those found in the table.

Response to Comments of Chillicothe Municipal Utilities.

Comment: Chillicothe Municipal Utilities (CMU) previously provided comments in support of the proposed regulations because there was an exemption for affected units that have low emissions or low urn hours. EPA has commented that the exemption for such units must be removed in order for Missouri to participate in the regional trading program.

Without the exemption for low emission or low run hour units, CMU will be forced to participate in the NOx and SO2 trading programs and be required to purchase allowances for their future emissions. While this will add a significant cost to future operations, the most significant cost will be imposed with future monitoring to be Part 75 requirements for Low Mass Emission (LME) units. CMU has always monitored the run time and fuel consumed for the combustion turbines in order to report emissions and to comply with permit conditions applicable to the combustion turbines. However, the Part 75 monitoring requirements are much more cumbersome and costly than Missouri currently allows for demonstrating permit compliance and annual emission reporting.

Without the exemption, CMU requests the proposed rules allow alternative monitoring, similar to what is currently allowed in Missouri for permit compliance or EIQ reporting, in lieu of Part 75 requirements for units that qualify as LME. The Part 75 procedures

allow default values that are too conservative, essentially over reporting emissions. Over reporting reduces the budget of NOx emissions available to participants in the trading program and increases the cost per allowance when more must be purchased than actually used. If a source wants to use site specific emission rates for reporting, the Part 75 procedures require specific testing procedures and frequencies that must be met to use site specific test results, with re-testing required on a five-year and possibly more frequent time periods. For units with very low run hours, the time to conduct testing can approach the annual run time a unit would otherwise operate.

For low emission or low run hour units CMU requests the agency include a provision in each of the rules referenced above that allows alternative monitoring procedures similar to what is already in use for reporting emissions. The added cost to refine the emission rates for low emission units does not justify the cost that will be incurred to refine the emission. And the difference in emissions to report will be insignificant for these low emission units. Use of the default emission factors allowed for LME units will also impose a substantial penalty to the source that determines its emissions from default values because the source will be required to buy more allowances than are needed since the default values over report actual emissions.
Response: The program agrees with the comments. However, in order to be included in EPA's Regional Trading program, the rule must not change the monitoring requirements. EPA submitted comments to the rule stating that they will not approve any of these changes.

Response to Comments of the Associated Electric Cooperative, Inc.

Comment: Associated Electric (AECI) would like to comment that the communication and cooperation afforded by the CAIR/CAMR stakeholder meetings was to the benefit of all parties. Implementation of such complex rule language is a major undertaking and the Missouri Department of Natural Resources is to be commended for initiating a fair and open forum. We look forward to engaging in such efforts in the future.
Response: The program appreciates the support of AECI and all of the workgroup members during the workgroup and rule process

Comment: Second, AECI supports the rule language and unit allocations as written in 10 CSR 10-6.363, 6.3264, and 6.366 with the qualified exceptions. Section (3)(B) of both the annual and seasonal NOx rules detail when and how the agency will submit to the Administrator the unit allocation per an approved state implementation plan. The language under these sections does not make it clear that the unit allocations will be permanent for the duration of these rules. AECI requests that language be added under this section to clarify that the unit allocations are permanent. On a clerical note, in paragraph (1)(B)1 of the SO2 rule, "NOx" should be changed to "SO2."
Response: The program has added language to clarify that the allocations to be used are those found in the table.

Comment: Third, we support the language of the May 4, 2006 "Proposed Rule Language for EE/RE Set-Aside in CAIR Annual NOx Rule." Specifically, we support the proposed EE/RE language under E(1)(V)(c) which provides preference for Missouri based projects when awarding CAIR allowances from the EE/RE set-aside. AECI believes that all Missourians stand to benefit from energy efficiency and renewable energy projects. The fruition of proposed renewable energy projects, such as the planned wind projects in

Northwest Missouri, will result in construction and maintenance jobs, income to local land owners, and will generate local and state tax revenue. While other such projects in neighboring states may provide some offsets for fossil fuel generation in Missouri, they will not directly benefit Missourians as stated above. In summary, AECI believes the preference is good policy and is appropriately placed.
Response: The program agrees with this comment and has not made any changes to the proposed rule language.

Response to Comments of Ameren.

Comment: As a general comment, Ameren strongly supports the stakeholder process adopted by the Air Pollution Control Program to develop the proposed regulations. The stakeholder process provides an opportunity for all interested parties to participate in the rulemaking and communicate their concerns to the Air Program. Ameren supports implementation of the federal Clean Air Interstate Rule and the Clean Air Mercury Rule including the adoption of the trading programs. We look forward to continued open dialogue with the Program to finalize the rules and implement the federal programs.
Response: The program appreciates the support of AECI and all of the workgroup members during the workgroup and rule process.

Comment: Ameren supports the proposed Clean Air Interstate Rule Seasonal NOx Trading Program rule and offers comments to clarify and improve the proposal as well as updated baseline emission data for AmerenUE and AEG units. The updated emission data is submitted as an Excel file. Additional data that supports the emission data is also submitted as separate Excel files. Ameren supports the concept of permanent NOx allowance allocations and their inclusion in the rule. The updated emission data may alter the allowance allocations for certain units.
Response: The program has amended the proposed rule as suggested.

Comment: Ameren supports the proposed exemption for units with low emissions or low hours of operation. The exemption provides relief for units that are not currently affected by the Acid Rain Program and is consistent with the exemptions provided in several existing Missouri regulations including the statewide NOx trading rule (10 CSR 10-6.350) and the NOx RACT rule for the St. Louis area (10 CSR 10-5.510). AmerenUE has at least eight combustion turbine units including Fairgrounds, Howard Bend, Meramec CT1 and CT2, Mexico, Moberly, Moreau and Viaduct that are eligible for exemption. On average, the units have operated less than 100 hours per year over the last six years. The majority of the operation is during the summer months to provide generation during periods of peak demand. The units are not required to have continuous emission monitoring systems under existing regulations. A requirement to install, certify and operate a continuous emission monitoring system would impose both an economic and resource burden, especially since the units have very low hours of operation.
Response: The programagrees with this comment. However, EPA has comment that these provisions are not approvable. Therefore, the provisions have been removed.

Ameren suggests that the format of the rule be changed so that the titles for Table 1 (NOx allocations for EGUs) and Table II (NOx allocations for non-EGU Boilers) correspond to the correct table. Please note that Table II was not included in the proposed rule.
Response: The program has amended the proposed rule as suggested.